

Reparations for Victims of Gross Violations of Human Rights and Serious Violations of International Humanitarian Law

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AHRC project 'Reparations, Responsibility and Victimhood in Transitional Societies'

<https://reparations.qub.ac.uk>



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Reparations, Responsibility & Victimhood in Transitional Societies

Exploring reparations by state & non-state
armed groups in transitional societies

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Nepal

<https://reparations.qub.ac.uk>

Reparations in Nepal have stalled, despite efforts to deal with the past through a comprehensive transitional justice process.

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COLOMBIA



GUATEMALA



NEPAL



NORTHERN IRELAND



PERU



UGANDA



Reparations and Transitional Justice

- Over 100 countries have provided some form of reparations
- Reparations can take the form of compensation, rehabilitation, memorials, apologies, restitution of land and rights, commitments to not repeat violations and institutional reform
- Reparations to recognise victims' harm, accountability, reconciliation



Purpose of Reparations

“

reparation must, as far as possible, wipe-out all the consequences of the illegal act and re-establish the situation which would, in all probability, have existed if that act had not been committed ”

***Chorzow Factory
case (1925)***

Reparations and International Law

- Right to remedy in most human rights conventions
- Reparations as a core component of international law
- UN Basic Principles on the Right to Remedy and Reparations for Gross Violations of Human Rights and Serious Breach of International Humanitarian Law
- Reparations through administrative, judicial or mixed bodies to large victim populations



Reparations Implementation

- Olsen et al-up to 2010 only 14 out of 84 transitional societies implemented reparations
- South Africa – 18% of Apartheid victims benefited from compensation
- Ratner et al (2014) – 47 transitional societies only 25% delivered reparations
- In our studies of post-conflict societies (eligible victims received reparations):
 - Colombia ~10%
 - Guatemala 16%
 - Peru – 95% - excluding ex-SL & MRTA
 - Nepal – only victims of disappearance, displacement, injury and extrajudicial killing
 - Northern Ireland – 2021 injured victim scheme, no bereaved scheme
 - No reparation programmes in Uganda and South Sudan



Victim memorial Nepalgunj

Colombia



“it is very difficult to repair a victim when you have another victimisation next month. How do you close the tap of reparations then.”

- Colombian civil society actor



**/ ENGAGING
NON-STATE ARMED
GROUPS ON
REPARATIONS /**

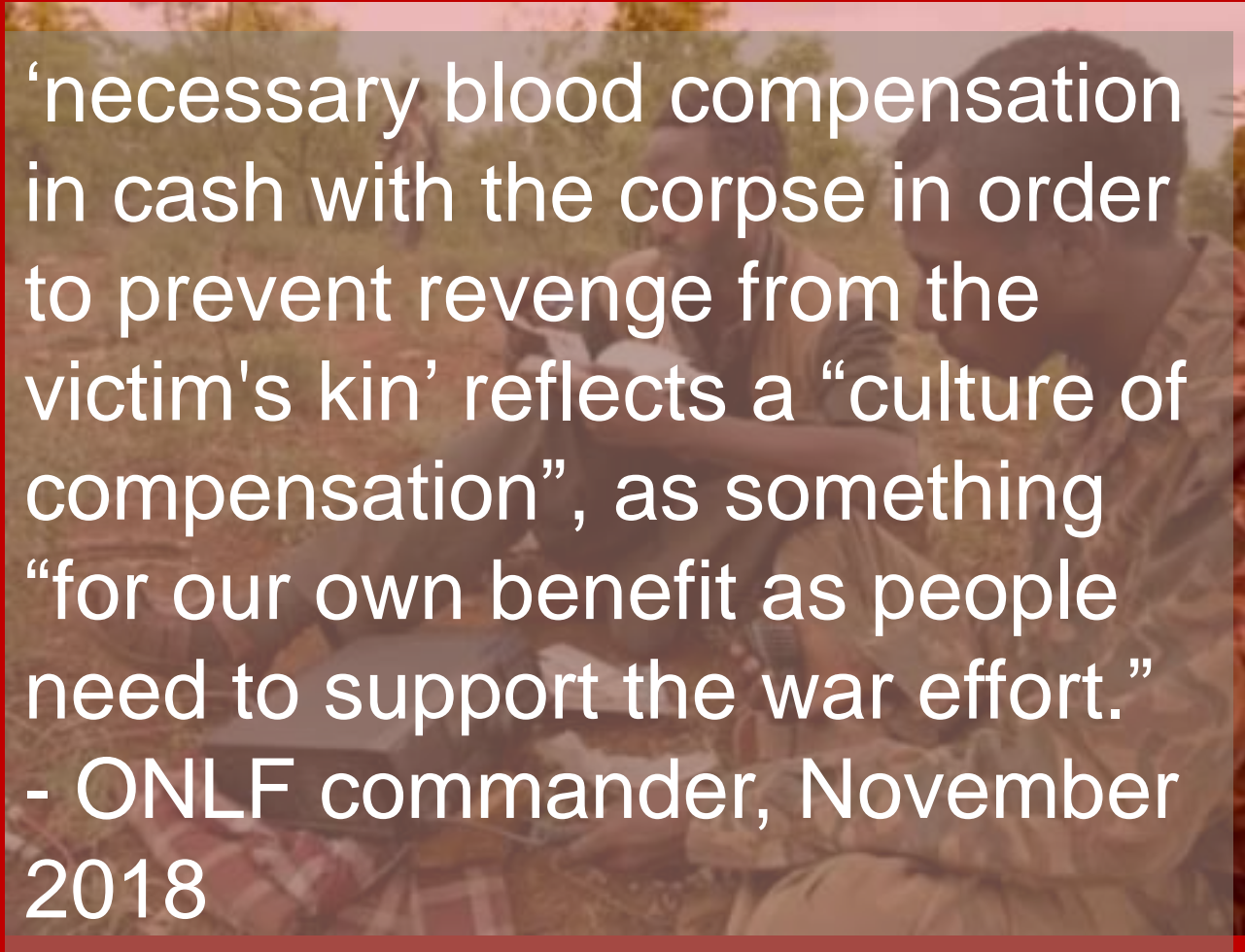
NSAGs Reparations During Conflict

Motivations to provide reparations:

- Governance
- Ideology
- Improve public image
- Cultural

Forms:

Rehabilitation; Cash: Apologies or acknowledgements of responsibility: and guarantees of non-repetition – removal of those responsible or other sanctions



‘necessary blood compensation in cash with the corpse in order to prevent revenge from the victim's kin’ reflects a “culture of compensation”, as something “for our own benefit as people need to support the war effort.”
- ONLF commander, November 2018



Post-Conflict Reparations

- Measures:

- Assets/land restitution
- Information
 - Location of disappeared/ clandestine burial sites
 - Truth recovery
- Rehabilitation and restitution
- Acknowledgement (≠ apology)
- Guarantees of non-repetition
 - Mitigating future violence; demining; infrastructure

- Challenges:

- NSAG may no longer exist
- Indigent or impoverished
- Symbolic measures over 'tangible' reparations
- Threats from dissidents
- Capacity



Recovery of Remains

- Northern Ireland – Independent Commission on the Location of Victims' Remains (ICLVR)
- Colombia - Unit for Search Disappeared Persons (UBPD)



Handbook on Civil Society Organisations and Donors Engagement on Reparations

Reparations, Responsibility

 Victimhood in Transitional Societies

- Working with victims on reparations should be based on genuine consultation and co-ownership that facilitates victim participation in the design, implementation and monitoring of reparation programmes
- Engaging with victims and providing them space to articulate what reparations should look like and can change over time is essential in informing the appropriate forms of reparations
- Consider what is feasible, realistic and in keeping with the ethos and capacity of the organisation when making reparations.
- Reparations need to be viewed as holistic measures. Not fulfilling promises can be worse than promising less

Belfast Guidelines on Reparations in Post-Conflict Societies

- Primary responsibility of States to ensure reparations to victims
- Non-state actors also responsible for reparations
- Making amends during conflict does not extinguish right to reparation
- An individual's status as a victim is not obliterated by their past actions or character.
- Interim reparations in protracted conflicts may be needed
- Funding for victim groups and allied civil society organisations is vital to support mobilization and success in securing reparations

Conclusion

- Reparations as a legal entitlement, but political contested and resisted by those responsible for violations
- Victims are the driving force for seeing reparations delivered
- Non-state armed groups as responsible actors and potential community leaders can play an important role in reparations
- Significant role funding makes in supporting victims and allied CSOs
- Reparations take years, decades, even generations to be delivered so long-term view needed in supporting victims